

## 23 VAC 10-230. WATERCRAFT SALES AND USE TAX

~~23 VAC 10-230-10. Bad checks.~~

~~If any check tendered for any amount due for state taxes imposed under this chapter be not paid by the bank on which it is drawn, the person by whom such check was tendered shall remain liable for the payment of such amount the same as if such check had not been tendered, and in addition to other penalties imposed by law, be subject to a penalty of \$10.~~

~~23 VAC 10-230-60. Dealer certificate of registration.~~

~~A. Generally. Any person determined by the Commissioner to be a dealer and who desires to transfer ownership in watercraft without first titling them, must apply with the Commissioner for a certificate of registration for each place of business in this state. An application must be accompanied by a fee of \$5.00 for each certificate to be issued. Applications should be made and fees made payable to the Virginia Department of Taxation, Watercraft Tax, P.O. Box 2185, Richmond, Virginia 23217-2185.~~

~~B. Form of application. Application must be made on the forms prescribed and furnished by the Commissioner. Applicant must show the name under which he transacts or intends to transact business, the location of his place or places of business, and such other information as the Commissioner may require. The application must be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an officer or some other person specifically authorized by the corporation to sign the application.~~

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~~C. Issuance. The Commissioner will issue a separate certificate of registration for each place of business in Virginia. A certificate is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. The certificate must be at all times conspicuously displayed at the place of business.~~

~~D. Revocation or suspension. Whenever any person fails to comply with any provision of this chapter or any rule or regulation of the Commissioner relating thereto, the Commissioner may revoke or suspend any one or more of the certificates of registration held by such person. Revocation or suspension may occur only upon hearing after giving such person 10 days notice in writing, specifying the time and place of hearing and requiring him to show cause why his certificate of registration should not be revoked or suspended. The notice may be personally served or served by registered mail directed to the last known address of such person. A dealer whose certificate of registration has been previously suspended or revoked shall pay the Commissioner a fee of \$10 for the renewal or reissuance of a certificate of registration.~~

~~E. Authorization to transfer watercraft. Only dealers holding current certificates of registration under this section shall be authorized to transfer ownership of watercraft without first filing and paying tax on the watercraft.~~

~~F. Ceasing business; changing place of business. If the holder of a certificate ceases to conduct his business at the place specified in his certificate, the certificate will thereupon expire. The holder must inform the Commissioner in writing within thirty days~~

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~~after he has ceased to conduct business in his name at such place. If the holder of a certificate desires to change his place of business, he must inform the Commissioner in writing. The certificate will be revised without charge.~~

~~23 VAC 10-230-70. Dealer exclusion.~~

~~A. Gross receipts tax in lieu of titling. If a person is determined by the Commissioner to be a dealer in watercraft and is registered according to 23 VAC 10-230-60, he will be exempt from the titling requirement in §62.1-186.2 of the Code of Virginia (Repealed) and from the watercraft sales and use tax as to all watercraft he purchases for resale or for lease, charter, or other use for compensation. However, a registered dealer is subject to a tax of two percent of the gross receipts from the lease, charter, or other use of, any watercraft so used. For purposes of this section, "gross receipts" includes hourly rental, maintenance, and all other charges for use of such watercraft. Also, unless separately stated on the invoice, "gross receipts" includes charges for piloting, crew, or other services in connection with the use of such watercraft.~~

~~For purposes of the dealer exclusion, the dealer is the user of the watercraft and is subject to tax on his gross receipts. Therefore, gross receipts from rentals, leases or charters to the United States or any governmental agencies thereof, or to the Commonwealth of Virginia or any political subdivision thereof, are includible in the dealer's gross receipts and subject to the tax.~~

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~~Gross receipts, however, will not include receipts received from lease or rental of any watercraft purchased by the dealer before January 1, 1982, provided the four percent retail sales or use tax was paid when the watercraft was purchased by the dealer.~~

~~B. Gross receipts monthly return and payment. Every registered dealer is required to file a gross receipts return on or before the twentieth day of the month following each reporting period, even if no tax is due. Returns are prescribed and furnished by the Department of Taxation. The law does not provide for quarterly, semi-annual or annual returns.~~

~~At the time of filing the return, the dealer must pay the amount of tax due. Failure to pay the tax will cause it to become delinquent.~~

~~A dealer who fails to file a gross receipts return and pay the full amount of tax by the due date is subject to a penalty of five percent of the tax due for each month or portion thereof that the failure continues, not to exceed twenty-five percent. The penalty may be waived by the Commissioner if there is good cause for the failure to file and/or pay on time. Requests for waiver of penalty must be made in writing to the Department of Taxation and must include all pertinent facts to support the request.~~

~~Interest at a rate determined in accordance with Section 58.1-15 of the Code of Virginia will accrue on the unpaid amount of the tax from the due date until the time of payment. Interest will accrue whether or not any penalty is waived.~~

~~C. Fair price for rental or use. If the Commissioner finds that a dealer has made a charge for the rental or use of watercraft that is lower than the fair market value of such~~

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~~rental or use, he may estimate a fair price. An estimate of fair price as used here means in accordance with the cost of the watercraft, the cost of maintenance, the normal rental value as shown in similar transactions, or other relevant data. The amount by which the fair price estimated under this section exceeds the charge actually made by the dealer will be included in "gross receipts" as used in this section.~~

~~23 VAC 10-230-100. Value of watercraft and penalty for misrepresentation.~~

~~A. Basis of tax. The basis of the tax is the sale price, including any amount credited for trade-in or any other transaction of like nature, except that if the watercraft is first used or stored for use in Virginia six months or more after its acquisition, the tax will be based on the current market value.~~

~~B. Invoice required. Any person who sells a watercraft in Virginia must supply the buyer with an invoice signed by the seller or his representative. The invoice must state the sale price of the watercraft. The buyer must present the invoice to the Commissioner with his return and payment of the tax. See 23 VAC 10-230-110 for other information required on the invoice.~~

~~C. Assessment by commissioner. Where the invoice is not available, or where the Commissioner has reason to believe the invoice does not reflect the true sale price, or the watercraft was purchased more than six months prior to its use or storage in Virginia, the Commissioner may assess the tax. Under these circumstances, the tax may be assessed in accordance with such publications or other data as are customarily employed in ascertaining the maximum sale price of watercraft.~~

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~~D. Misrepresentation. Any person who knowingly misrepresents on an invoice between buyer and seller, on any return, or to the Commissioner the value of a watercraft or the amount of tax due shall be guilty of a misdemeanor.~~

~~23 VAC 10-230-130. Allocation of funds.~~

~~All funds collected under this chapter by the Commissioner will be paid forthwith into the general fund of the State Treasury.~~